

**EXHIBITS - MARKING, LISTING AND CUSTODY**  
for United States District Court Judge  
Frederick J. Martone  
**Judge Code: 7028**

**GENERAL INSTRUCTIONS:**

Exhibits shall be prepared by counsel and delivered to the courtroom deputy **AT LEAST 24 HOURS IN ADVANCE OF TRIAL** or any such time as the court requires. Counsel are required to use the court's adhesive labels and/or cover sheets as described herein. Counsel also shall prepare the exhibit worksheet and witness list and deliver them to the courtroom deputy in triplicate (1 original and 2 copies) along with the exhibits. During trial, please be prepared to advise the courtroom deputy **in advance** which exhibits will be needed for each witness. At the conclusion of trial, all exhibits will be returned to appropriate counsel for custody during any appeals process. Exhibits not retrieved by counsel may be destroyed by the clerk. (See Local Rule 1.3) Please e-mail the courtroom deputy at **[kelly\\_branding@azd.uscourts.gov](mailto:kelly_branding@azd.uscourts.gov)** for copies of exhibit and witness forms used by this court.

**USE OF LABELS/COVER SHEET:**

1. Exhibit cover sheets and labels are divided by color to indicate whether the exhibit is offered by plaintiff (YELLOW) or defendant (BLUE). Counsel shall use the original cover sheets provided to make colored copies for attaching to exhibits; if adhesive labels are required, they will be provided by the courtroom deputy. Cover sheets and labels are provided to counsel by the courtroom deputy for the purpose of numbering and labeling exhibits **PRIOR** to trial.
2. Exhibit cover sheets shall be copied on yellow or blue paper and used in cover sheet fashion to identify standard size paper exhibits. The cover sheet shall be stapled to the top of the original exhibit, and the exhibit shall be placed in a manilla folder numbered to correspond with the exhibit number. Prepare extra cover sheets to use for exhibits marked during trial.
3. If the exhibit is a photo, use adhesive labels on the back of the photo.
4. Large or bulky items may require the use of tie tags with the exhibit label placed on the tag or placed in a logical location on the item or on the plastic bag containing the item.
5. Large charts should be labeled on the lower right-hand corner or on the reverse side of the chart. If the item is an enlargement of another marked exhibit, it should be numbered as a sub-part of the smaller exhibit.

**NUMBERING:**

1. Blocks of numbers are assigned to each side; plaintiff uses numbers 1 thorough the estimated number of exhibits. Defendant is given numbers starting after plaintiff but allowing space for additional exhibits marked during trial (example: Plaintiff 1-80 and Defendant 100-150). **If counsel**

fail to comply with this instruction, counsel will be required to remark the exhibits.

2. Plaintiff and defendant shall consult with one another prior to marking exhibits to **AVOID MARKING DUPLICATES**. If plaintiff marks a document, the defendant should not mark the same document. The exhibits are considered court exhibits; either side may move the other's exhibits into evidence.

3. Use **NUMBERS ONLY** except when identifying sub-parts (e.g., 3a, 3b, 3c). If the sub-parts total more than a through z for a single exhibit, do not use letters; instead, use separate numbers for each sub-part. Categorizing exhibits should be kept as simple and clear as possible. For the most part, **USE NUMBERS**.

4. Multiple-page exhibits should be stapled or ACCO fastened; please do not use paper or binder clips.

5. Blocks of numbers may be used to categorize exhibits (e.g., series 1-99 are bank records; series 100-199 are tax returns; series 200-299 are photographs; series 300-399 are miscellaneous).

#### **USE OF FOLDERS:**

1. Place exhibits loose in folders so that the exhibit may be pulled from the folder during trial. **DO NOT** attach the exhibit to the file folder. Label the top of the folder to identify the exhibit. Have extra folders on hand for exhibits marked during trial.

2. If there are many folders, place them in a box in numerical order. Mark the outside of the box as to which exhibits are contained therein. Leave room in the box for any extra exhibits that may be submitted during trial.

3. **DO NOT PLACE TRIAL EXHIBITS IN BINDERS** except when the binder is considered **ONE** exhibit. Mark the binder with an exhibit label in the lower right hand corner.

#### **COPIES OF EXHIBITS FOR JUDGE:**

Judge Martone does not require counsel to provide copies of exhibits. If counsel wish to prepare bench copies, they shall be placed in a binder and tabbed with the corresponding exhibit number. The judge's copies should not have original exhibit stickers on them.

#### **EXHIBIT LISTS:**

1. Exhibits shall be listed on the exhibit list provided, or the exhibit list may be reproduced on a word processor so long as it follows the same format. The form is self-explanatory. Be sure to leave enough **SPACE** at the end of the list to add additional exhibits. Each page shall be

completed to the end or finished with blank blocks. Extra blank pages are appreciated for both the exhibit and witness lists. The exhibit number and description should be started at the top of each block.

2. Provide the courtroom deputy with the original and two copies of the exhibit list along with the exhibits.

#### **WITNESS LISTS:**

1. Witnesses shall be listed on the witness list provided, or the witness list may be reproduced on a word processor so long as it follows the same format. Please provide full names and list them in alphabetical order. Names should be at the top of the block and extra blank spaces included at the end--this is helpful when names have to be added that are not on the list.

2. Provide the courtroom deputy with the original and two copies of the witness list along with the exhibits.

#### **SENSITIVE EXHIBITS:**

The courtroom deputy will not take custody of any sensitive exhibits. During lengthy breaks and at close of the day, these exhibits are returned to the government (usually the agent) until court resumes. Pursuant to General Order 160 dated July 30, 1987:

"The arresting or investigative agency or designated representative shall retain custody of sensitive exhibits prior to, throughout, and after the trial. Sensitive exhibits shall include drugs and drug paraphernalia, guns and other weapons, money and any other exhibits designated as sensitive by the court."

#### **IMPEACHMENT EXHIBITS:**

1. Impeachment exhibits are given to the courtroom deputy **the first day of trial**, not the day a witness testifies, in a SEALED envelope. The envelope shall be marked with the caption of the case and shall identify the party presenting the exhibits. If there is more than one exhibit in the envelope, mark each one with a **SEPARATE NUMBER** so you (and the clerk) will be able to identify it. Identify these exhibits with a numbering system of your own for easy retrieval, and the courtroom deputy will assign the next available number when the exhibit is used.

#### **STIPULATED EXHIBITS:**

In civil trials, parties may agree on most of the exhibits prior to trial and as listed in the pretrial order. Counsel may give the courtroom deputy a list of the stipulated exhibits to be marked in evidence before moving for their admission. In criminal trials, stipulated exhibits usually come in one at a time during the course of trial.

**DEPOSITIONS:**

Depositions **ARE NOT** marked as exhibits. Identify them by party (so they will be returned to the correct party after trial), place them in alphabetical order and give them to the courtroom deputy the morning of trial.

**MEDICAL OR TECHNICAL TERMS:**

Provide a list of medical or technical terms for the court reporter prior to the trial commencing.

**RETURN OF EXHIBITS:**

1. Pursuant to Local Rule 1.3(a), all exhibits are returned to respective parties for them to retain custody pending all appeals. If exhibits are not retrieved by counsel within 30 days of the Notice of Return of Exhibits, pursuant to Local Rule 1.3(c), the clerk may destroy or otherwise dispose of those exhibits.

2. Usually trial exhibits are returned immediately to respective counsel upon conclusion of trial. Counsel will sign for returned exhibits. When a case is taken under advisement and a verdict or court ruling issues at a later date, a separate order will follow directing counsel to retrieve the exhibits from the courtroom deputy.

If you have any questions or wish to receive exhibit forms electronically, please e-mail or call me.

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